

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10764 of 1994

WITH

MCA 724 of 1995 AND CAA 841 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE R.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the judgement?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

1 to 5 : No

YASHODHAR OMKARLAL JAIN

Versus

DIVISIONAL MANAGER

Appearance:

PARTY-IN-PERSON for Petitioner

MR JJ YAJNIK for Respondent No. 1

MR JD AJMERA for Respondent No. 4

CORAM : MR.JUSTICE R.A.MEHTA

Date of decision: 13/04/98

ORAL JUDGEMENT

1. The petitioner was granted permission by the Telephones Department to establish a PCO Booth for Local, STD and ISD calls. The petitioner had mentioned three areas of Ahmedabad: (1) Meter Gauge Railway Station, Ahmedabad, (2) Revadi Bazar and (3) Delhi Darwaja.

However, the railway authorities did not permit the petitioner to establish PCO booth on the Meter Gauge Railway Station. He had, therefore, filed a petition being Special Civil Application No. 14453 of 1993. That petition came to be disposed of on 29.7.1994 by direction

that his applications dated 12.12.1991 and 29.7.1994 may be considered on merits expeditiously after giving hearing to the petitioner and the petition was disposed of as withdrawn.

2. By an order dated 11th August 1994 (page 21), the railway authorities rejected the application of the petitioner observing that as per the policy, STD/PCO sites in the railway premises are allotted only to the persons who have a handicap of 40% and above, besides the consideration of other merits and passing through administrative procedures. The petitioner, therefore, challenged that order in this petition.

3. At the time of admission of the petition, the Court had passed the following order on 6th September 1994.

"Notice returnable on 26.9.1994. It is directed that Divisional Commercial Manager, Baroda who is respondent no.1 herein shall either remain personally present or shall depute a competent officer with regard to the papers forwarded by the petitioner and more particularly the policy whereby they have laid down that 40% of the booths are reserved for handicapped persons."

Thereafter, on 15th June 1995, the petition was admitted.

4. Mr. Yagnik, learned Counsel for the respondents has produced a letter dated 25.11.1993 from the Headquarters Office to the Divisional Office on the subject of allotment of STD/ISD/PCO Booths wherein it is reiterated that pay phones having Local, STD & ISD facilities will be allotted only to persons who are handicapped by 40% and above. It is further laid down that the Divisional Office shall (a) first ascertain:

need of having a PCO at a particular station;

(b) when the need is ascertained, the Divisional Office shall write to the HQ Office about the need of PCO at a particular station and seek approval from the HQ to have a PCO at that particular station; and

(c) on receipt of administrative approval from the HQ, the Divisional Office will have to invite applications by issuing suitable notification in the local newspapers etc., from all persons who have a handicap of 40% or more only.

5. It is,thus,clear that the policy of the railway administration is to permit only such handicapped persons to establish telephone booths at railway stations. Admittedly, the petitioner does not fall into this category and, therefore, the railway administration cannot be directed to permit the petitioner to establish PCO Booth at Ahmedabad Meter Gauge Railway Station.

6. Since there is no merit in the petition, it is dismissed. Rule discharged.

In view of the order passed in main Special Civil Application, MCA No. 724 of 1995 and CAA No.841 of 1995 stand disposed of.

mhs/-